

**FILED**

**JAN 28 2013**

**Board of Vocational Nursing  
and Psychiatric Technicians**

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8  
9 **BEFORE THE**  
**BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. VN-2011-3601

12 **ROBIN LYNN SKARSTEN**  
13 **2613 E. Quincy Avenue**  
14 **Orange, CA 92867**

**A C C U S A T I O N**

15 **Vocational Nurse License No. VN 159031**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in  
21 her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric  
22 Technicians, Department of Consumer Affairs.

23 2. On or about July 31, 1992, the Board of Vocational Nursing and Psychiatric  
24 Technicians issued Vocational Nurse License Number VN 159031 to Robin Lynn Skarsten  
25 (Respondent). The Vocational Nurse License expired on September 30, 2011, and has not been  
26 renewed.

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## JURISDICTION

3. This Accusation is brought before the Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2875 of the Code provides, in pertinent part, that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

5. Section 118, subdivision (b) of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under section 2892.1 of the Code, the Board may renew an expired license at any time within four years after the expiration.

## STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, in pertinent part, that the Board may suspend or revoke a license when it finds that the licensee has been convicted of a crime substantially related to the qualifications, functions or duties of a licensed vocational nurse.

8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board

1 may inquire into the circumstances surrounding the commission of the crime in order  
2 to fix the degree of discipline or to determine if the conviction is substantially related  
to the qualifications, functions, and duties of the licensee in question.

3 As used in this section, "license" includes "certificate," "permit," "authority,"  
4 and "registration."

5 9. Section 2878 of the Code states:

6 The Board may suspend or revoke a license issued under this chapter [the  
7 Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the  
following:

8 (a) Unprofessional conduct, which includes, but is not limited to, the  
9 following:

10 ....

11 (d) Violating or attempting to violate, directly or indirectly, or assisting in or  
abetting the violating of, or conspiring to violate any provision or term of this chapter.

12 ...

13 (f) Conviction of a crime substantially related to the qualifications, functions,  
14 and duties of a licensed vocational nurse, in which event the record of the conviction  
shall be conclusive evidence of the conviction.

15 ....

16 10. Section 2878.6 of the Code states:

17 A plea or verdict of guilty or a conviction following a plea of nolo contendere  
18 made to a charge substantially related to the qualifications, functions and duties of a  
licensed vocational nurse is deemed to be a conviction within the meaning of this  
19 article. The board may order the license suspended or revoked, or may decline to  
issue a license, when the time for appeal has elapsed, or the judgment of conviction  
20 has been affirmed on appeal or when an order granting probation is made suspending  
the imposition of sentence, irrespective of a subsequent order under the provisions of  
21 Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty  
and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing  
22 the accusation, information or indictment.

### 23 REGULATORY PROVISIONS

24 11. California Code of Regulations, title 16, section 2504.1 states:

25 If the board or its designee asks a licensee to provide criminal history  
26 information, a licensee shall respond to that request within 30 days. The licensee  
shall make available all documents and other records requested and shall respond  
27 with accurate information.

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12. California Code of Regulations, title 16, section 2521, states:

For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a licensed vocational nurse if to a substantial degree it evidences present or potential unfitness of a licensed vocational nurse to perform the functions authorized by his license in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those involving the following:

(a) Procuring a license by fraud, misrepresentation, or mistake.

(b) A conviction of practicing medicine without a license in violation of Chapter 5 of Division 2 of the Business and Professions Code.

(c) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of Chapter 6.5, Division 2 of the Business and Professions Code.

(d) Aiding or assisting, or agreeing to aid or assist any person or persons, whether a licensed physician or not, in the performance of or arranging for a violation of any of the provisions of Article 13, Chapter 5, Division 2 of the Business and Professions Code.

(e) Conviction of a crime involving fiscal dishonesty.

(f) Any crime or act involving the sale, gift, administration, or furnishing of "narcotics or dangerous drugs or dangerous devices" as defined in Section 4022 of the Business and Professions Code.

13. California Code of Regulations, Title 16, section 2522 states:

When considering a) the denial of a license under Section 480 of the Business and Professions Code, b) the suspension or revocation of a license on the ground that a licensee has been convicted of a crime, or c) a petition for reinstatement of a license under Section 2787.7 of the Business and Professions Code, the Board in evaluating the rehabilitation of an individual and his or her present eligibility for a license, will consider the following criteria:

(1) Nature and severity of the act(s), offense(s), or crime(s) under consideration.

(2) Actual or potential harm to the public.

(3) Actual or potential harm to any patient.

(4) Overall disciplinary record.

(5) Overall criminal actions taken by any federal, state or local agency or court.

(6) Prior warnings on record or prior remediation.

(7) Number and/or variety of current violations.

1 (8) Mitigation evidence.

2 (9) In case of a criminal conviction, compliance with terms of sentence and/or  
3 court-ordered probation.

4 (10) Time passed since the act(s) or offense(s) occurred.

5 (11) If applicable, evidence of proceedings to dismiss a conviction pursuant to  
6 Penal Code section 1203.4.

7 (12) Cooperation with the Board and other law enforcement or regulatory  
8 agencies.

9 (13) Other rehabilitation evidence.

### 10 COSTS

11 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
12 administrative law judge to direct a licentiate found to have committed a violation or violations of  
13 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
14 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
15 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
16 included in a stipulated settlement.

### 17 FIRST CAUSE FOR DISCIPLINE

#### 18 (February 17, 2012 Criminal Conviction for Child Abuse/Endangerment)

19 15. Respondent has subjected her license to disciplinary action under sections 490 and  
20 2878, subdivision (f) of the Code in that she was convicted of a crime that is substantially related  
21 to the qualifications, functions, and duties of a licensed vocational nurse. The circumstances are  
22 as follows:

23 a. On or about February 17, 2012, in a criminal proceeding entitled *People of*  
24 *the State of California v. Robin Lynn Skarsten*, in Orange County Superior Court, case number  
25 11CM08860, Respondent was convicted on her plea of guilty of violating Penal Code section  
26 273a, subdivision (b), child abuse and endangerment, a misdemeanor.

27 b. As a result of the conviction, on or about February 17, 2012, Respondent  
28 was granted four years informal probation, and sentenced to 90 days in the Orange County Jail,  
stayed pending successful completion of probation. Respondent was ordered to serve 30 days in

1 the CalTrans/Physical Labor program in lieu of an additional 30 days in jail. Respondent was  
2 further ordered to complete a one-year Child Abuser Treatment Program, comply with the court's  
3 protective order, pay fees, fines, and restitution, and comply with probation terms.

4 c. The facts that led to the conviction are that on or about the afternoon of  
5 December 28, 2010, officers from the Orange Police Department responded to an anonymous  
6 report of possible child neglect situation involving Respondent and her five-year-old son. Upon  
7 arrival at the residence, officers met with a female who lived at the residence. As she went to  
8 retrieve Respondent, the officers noted that from their vantage point at the doorway, the residence  
9 was strewn with trash, papers, shoes, boxes, toys, newspapers, and clothing, as much as three to  
10 four feet high in some areas. They immediately smelled a foul odor of animal urine and feces  
11 emitting from inside the home. Respondent came to the door; she appeared she had just woken.  
12 Respondent allowed the officers to enter the residence. The officers observed at least three cats  
13 and two dogs. The kitchen cupboards and refrigerators did not contain food sufficient to feed a  
14 five-year-old child. The remainder of the house, with the exception of one bathroom, was also  
15 covered in trash, boxes, clothing, toys, animal feces, toys, newspapers, used dishes, old food, and  
16 fast food wrappers. Respondent stated that she fell into a depression due to her relationship with  
17 her son's father, and that he physically and emotionally abused their son. The officers observed  
18 that the five-year-old appeared in good health; he was wearing diapers and appeared slightly  
19 delayed in his communication abilities. Respondent stated that her son had several health-related  
20 issues and that she had planned on taking him to the doctor. A social worker from the Orange  
21 County Social Services arrived, performed an inspection of the premises, and took protective  
22 custody of the five-year-old boy. Respondent was not arrested at the time.

## 23 **SECOND CAUSE FOR DISCIPLINE**

### 24 **(Violating the Provisions or Terms of the Nursing Practice Act)**

25 16. Respondent has subjected her license to disciplinary action under section 2878,  
26 subdivisions (a) and (d) of the Code for unprofessional conduct, in that she failed to comply with  
27 California Code of Regulations, title 16, section 2504.1, which requires a licensee to respond to  
28 the Board's request for criminal history information within 30 days. The circumstances are as

1 follows:

2 a. In a letter dated March 13, 2012, a Board analyst requested Respondent to  
3 provide criminal history information regarding her arrest and conviction for child abuse within 30  
4 days. Respondent failed to reply to the Board's requests to provide criminal history information.

5 b. In a letter dated March 26, 2012, a Board analyst requested Respondent to  
6 provide a detailed description of the events that led to the violations within 30 days. The letter  
7 warned Respondent that failure to comply could result in the issuance of a citation and fine.  
8 Respondent failed to reply to the Board's requests to provide a detailed description of events.

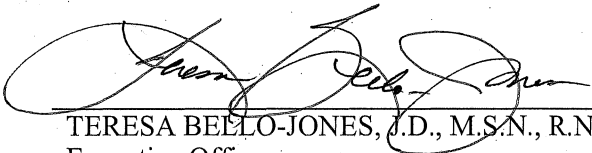
9 c. In a letter dated August 15, 2012, sent by certified and First Class mail, a Board  
10 analyst requested Respondent to provide a detailed description of the events that led to the  
11 violations within 30 days. The certified mail receipt was signed by Respondent. Respondent  
12 failed to reply to the Board's requests to provide a detailed description of events.

13 **PRAYER**

14 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
15 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians  
16 issue a decision:

- 17 1. Revoking or suspending Vocational Nurse License Number VN 159031, issued to  
18 Robin Lynn Skarsten;
- 19 2. Ordering Robin Lynn Skarsten to pay the Board of Vocational Nursing and  
20 Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case,  
21 pursuant to Business and Professions Code section 125.3;
- 22 3. Taking such other and further action as deemed necessary and proper.
- 23

24 DATED: **JAN 28 2013**

25   
26 TERESA BEELO-JONES, J.D., M.S.N., R.N.  
27 Executive Officer  
28 Board of Vocational Nursing and Psychiatric Technicians  
Department of Consumer Affairs  
State of California  
Complainant

SD2012704330